

Appl. No. 10/623,546
Response, dated September 20, 2005
Reply to Office Action of July 21, 2005

II. Remarks

Claims 1 to 19 are pending. Claims 1 and 14 are independent. Applicant has reviewed the Examiner's rejections and comments, including the marked figure 1, of the Final Action dated July 21, 2005. Applicant would like to address the Examiner's rejections and comments as per below.

The Examiner rejects claims 1-6 and 9-19 for being anticipated by United States patent 4,164,105 to Herbst et al. With regard to independent Claim 1, according to the Examiner: Herbst discloses a barrier of variable dimension (figs 3a, 4 & 5) comprised of a planar frame; the barrier as having a first member with a base and a pair of tabs (marked fig. 1) making a female connector; a second member having a pair of flanges (marked fig. 1) making a male connector, the tabs overlapping the flanges (fig. 2); a plurality of channel portions (marked fig. 1) for making a continuous channel around the frame; and an insect screen (column 4, lines 9-10) closing the opening of the frame.

Applicant maintains that the proper interpretation of Herbst is such that the disclosed Herbst structure for frame construction is neither the same nor similar to that of the presently claimed invention, reproduced below for discussion purposes, with emphasis added.

Claim 1. A barrier of variable dimensions configured for inhibiting an ingress and egress of insects with respect to an adjacent entrance, the barrier comprising;

a substantially planar closed frame including a plurality of interconnecting first and second members for defining an opening, at least some of the members configured for adjustment in length to conform the peripheral dimension of the assembled frame to those of the adjacent entrance;

the first member of the plurality of interconnecting members having a base having first and second edge portions, the first and second edge portions being folded toward each other to form a pair of tabs to provide a female connector;

Appl No. 10/623,546
Response, dated September 20, 2005
Reply to Office Action of July 21, 2005

the second member of the plurality of interconnecting members having a pair of flanges providing a male connector configured for being received by the female connector for coupling the first member and the second member to one another, such that when received the pair of flanges overlap with the pair of tabs of an adjacent first member;

a plurality of channel portions attached to at least some of the members, the channel portions configured for providing a continuous channel disposed intermediate the first and second edge portions, the continuous channel extending around the closed frame once assembled; and the continuous channel configured for attachment to an insect screen for covering the defined opening of the closed frame.

"Folded" Limitation

Applicant has considered the Examiner's comments to the term folded being a process limitation. However, Applicant considers the proper construction of the term "folded" is as a descriptive term for a structural claim limitation denoting that the base material is integrally connected to the edge portion material (i.e. tabs) to define the female connector geometry, rather than the actual process of forming the tabs. Applicant considers the use of Applicant's own terminology appropriate in order to describe a novel structural feature of the claimed invention.

"in" versus "by"

Applicant notes the discussion of the Examiner on page 6 of the Final Action under Response to Arguments. Applicant considers the proper construction of the claim limitation "received by", with respect to the flanges of the male connector and the tabs of the female connector, is that the flanges are inserted into the tabs (i.e. the male connector is received by the female connector). Applicant notes that the claims should be taken in context with the rest of the specification, and as such the flanges are clearly positioned within tabs to make the frame connection between the first

Appl. No. 10/623,546
Response, dated September 20, 2005
Reply to Office Action of July 21, 2005

and second members. Further, Applicant has researched the term "received" on dictionary.com to have a meaning:

To take in, hold, or contain: *a tank that receives rainwater,*

taken from the source - The American Heritage® Dictionary of the English Language, Fourth Edition Copyright © 2000 by Houghton Mifflin Company. Accordingly, Applicant maintains there is no interpretive distinction between the phrase "received by" and "received in" when interpreted in view of the specification as a whole.

Therefore, upon review of the proposed "flanges" and "tabs" of Herbst, as suggested and marked by the Examiner, Applicant maintains that the *adjacent* positioning of the marked "flanges" and "tabs" of Herbst is in no way similar or even suggestive of the *overlapped* configuration of the claimed tabs and flanges in present claims 1 to 19. This difference in configuration is one differentiation of the claimed invention over the disclosure of Herbst, as the claimed flanges are configured to be *received by* the tabs rather than to be *adjacently* positioned as in Herbst. The proposed "flanges" of element 4 of Herbst are positioned adjacent to the proposed "tabs" of element 2, as the prong 21 is inserted in the channel 11, to form a *butt* joint between frame elements 1 and 2 as compared to the presently claimed *overlapped* joint.

Channel

Applicant notes via the marked up Figure 1 of Herbst, provided by the Examiner, that element 1/2 and element 4 are considered as the first and second members respectively. Further, the Examiner has interpreted the channel/groove 12 of element 1/2 to be *both* a female connector (used for connecting elements 1/2 with element 4) *and* a channel for connecting the screen to the elements 1/2 and 4.

Appl. No. 10/623,546
Response, dated September 20, 2005
Reply to Office Action of July 21, 2005

This dual component interpretation of the channel/groove 12 of Herbst is contrary to the presently claimed invention, which explicitly claims a *first* structural limitation of a female connector (provided by a pair of tabs) for facilitating connection of the members to one another and a *second* structural limitation of a continuous channel for connecting the screen to the assembled frame of the connected members, as described and claimed in the present application. Hence the female connector of the members and the continuous channel attached to the members are separate and distinctly stated claim structural elements. Applicant respectfully submits that the presently claimed invention is not for a combination channel/female connector for attaching a screen to an assembled frame, as shown in Herbst, but rather includes a structurally distinct female connector for facilitating connection of the first and second members to provide a "planar closed frame including a plurality of interconnecting first and second members" and a structurally distinct "plurality of channel portions attached to at least some of the members" to attach the screen to the assembled frame. Accordingly, Applicant submits that the Figure 1 of Herbst does not disclose all of the structural limitations of the presently claimed invention.

Accordingly, Applicant maintains that the presently claimed first and second members are connected via the stated male (i.e. flanges) and female (i.e. tabs) connectors to assemble the "substantially planar closed frame" and the presently claimed channel is for "attachment to an insect screen for covering the defined opening of the closed frame". This arrangement is not shown in Herbst, as the proposed "tabs" and "flanges" of elements 1/2 and 4 are for *holding* the screen to the *assembled* frame, as the frame of Herbst is instead assembled by additional structures of prongs 21 and corresponding channels 11, which in no way resemble the presently claimed male and female connectors. Further, Applicant would like to bring to the Examiner's attention that the connection between elements 1 and 2 of Herbst (i.e. the assembled frame) provides for a butt joint between the mating ends of the elements 1 and 2, rather than the overlapped joint as presently claimed.

Therefore, Applicant reiterates that the overlapping of the folded tabs of the female tabed

Appl. No. 10/623,546
Response, dated September 20, 2005
Reply to Office Action of July 21, 2005

connector with the male flanged connector provides for a closed planar frame having a first edge portion and a second edge portion with a channel intermediate the two portions. The planar outer edge portion and the continuous channel helps to prevent the ingress and egress of insects through possible abutment with at least two surfaces of the adjacent opening (the side and top.) Further, a barrier to insects can be maintained, even in the case of significant warping of the first and/or second members, due to the overlapped joints between the first and second members. The structure of the presently claimed interconnecting members is such that a continuous flange, resistant to insect penetration through warping of the flange at the junction between adjacent connected members, may be formed about the periphery of the closed frame. Applicant maintains that the butt joint between the elements 1 and 2 of Herbst would be susceptible to insect infiltration, and as such a in now way teach or even suggest the overlapped nature of the joints between respective members of the presently claimed invention.

Applicant further notes the rejection of dependent claims 2-6, 9-13, and 15-19 under 35 U.S.C. 102 in view of Herbst, however, Applicant submits these rejections are moot in view of the above given discussion in relation to independent claims 1 and 14.

Applicant further notes the rejection of claims 7 and 8 under 35 U.S.C. 103(a) in view of Herbst, however, Applicant submits this rejection is moot in view of the discussion regarding independent claims 1 and 14.

Further, Applicant notes the prior art made of record and not relied upon by the Examiner, however, considers this art also not relevant in view of the above presented claim amendments and supporting remarks.

It is believed that the above remarks submitted herein have placed this present application in condition for allowance, and a Notice thereof is requested. If the Examiner has further concerns, he is encouraged to contact Applicant's undersigned agent at 416-862-4318 with a view to arrange an

Appl No. 10/623,546
Response, dated September 20, 2005
Reply to Office Action of July 21, 2005

Examiner's interview. All correspondence should continue to be directed to listed address shown below.

Respectfully submitted,



Grant Tisdall
Agent for Applicants
Registration No. 53,902

GOWLING LAFLEUR HENDERSON LLP
Suite 4900
Commerce Court West
Toronto, Ontario
Canada M5L 1J3
Facsimile: (416) 862-7661

TOR_LAW 59248641